

REMARKS

SUMMARY OF TELEPHONE CONFERENCE WITH EXAMINER GUIDOTTI

On March 26, 2008, applicant and his attorney conducted a teleconference with Examiner Guidotti re the Office Action.

Applicant began the teleconference by discussing how his invention operates as compared with the prior art of record. He stressed that one advantage of his invention over the prior art is the ease with which the scrubbing element may be installed and removed. More particularly, applicant indicated that his invention can be installed (or removed) using a single hand and without letting go of the end of the attaching cord during the installation process. Applicant reiterated that this is a huge practical advantage of his invention over the prior art.

Applicant also discussed with the Examiner amendments to the claims that might place the case in condition for allowance. Reference was specifically made by the Examiner to the embodiment of applicant's Figure 7 in which the retaining slits 215 and 220 contained ridges internal thereto as an example of a structure that was not in the prior art of record. Additionally, the Examiner indicated that the terminology originally used by applicant – and which was changed in the RCE – could be modified to avoid at least the Chen reference by adding a requirement that the slits extended through the thickness of the handle and extended to its periphery. No specific language was agreed to during the conversation, but the applicant was encouraged by the Examiner to submit claim amendments of the sort discussed above for examination and applicant agreed to do so.

AMENDMENTS TO THE CLAIMS

Claims **1, 6, 7, 8, 9, 10, 12, 16,** and **20** have been amended to more clearly reflect the invention claimed by the instant inventor. In more particular, the language that describes the slits as being linear and elongated is fully supported in the specification and figures (e.g., Figure 3) and, as such, does not constitute new matter.

Further, each independent claim has been given the added limitation that the retaining slit have a ridge internal thereto. This limitation is clearly disclosed in, for example, Figure 7 and, as such, does not constitute new matter.

Still further, the independent claims have both been modified to make it clear that both a slit and a slot must cooperate to bind the scrubber in place via its attaching cord. This approach is clearly discussed in numerous places within the application (*see, e.g.,* applicant's Figure 1) and, as such, is not new matter.

Additionally, a few typographical problems with the claims were corrected. For example, in Claim **1** at line 9, the missing word "one" was added to the claim. The word "retaining" was eliminated from Claim **9** as it was typographical remnant of the claims as-filed and lacked proper antecedent basis in the current claim set. As such, neither amendment constitutes new matter.

OBJECTIONS TO THE DRAWINGS

The drawings stand as objected to under 37 CFD 1.83(a). It is said that the binding wedge slit and binding wedge must be shown in the drawings or the features canceled from the claims.

In response, applicant would note that these features are present in at least Figures 2 and 3 (i.e., slits 215 and 220). That being said, at the suggestion of the examiner the applicant has amended the claim language to remove the phrases objected to, thereby returning the language closer to the form. As such, the instant objection is believed to be moot and should be withdrawn.

CLAIM OBJECTIONS AND REJECTIONS

Rejections Under 35 U.S.C. 112

Claims 1-20 are said to be rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. It is said that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

In reply, although applicant contends that the subject matter complained of may be found throughout the specification explicitly, implicitly, and/or by implication, the claims as-amended have made moot this rejection. Each occurrence of “binding wedge” in the claims has been removed via the amendment offered above.

As a consequence, the rejection of Claims 1-20 as-amended is believed to be moot and, as such, it is believed that this objection should be withdrawn.

Claims 1-15 are said to be rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention. It is said that Claim 1 recites the limitation “said at least one

binding wedge” in Line 9. It is also said that in Line 8 there is a binding wedge *slit*, not a binding wedge (emphasis in original). It is further said that it is not clear as to whether the binding wedge and binding wedge slit are the same. It is still further said that Claim 6 recites the limitation “said binding wedges” in Line 2 and there is insufficient antecedent basis for this limitation in the claim.

In reply, it is believed that the amendments offered *supra* fully address these objections. In more particular, Claim 1 has been amended to remove any reference to “binding wedge”, the word “slit” is now modified by “linear elongate” per the Examiner’s suggestion, the reference to “binding wedge slit” has been removed, and finally, the reference to “said binding wedges” has been replaced with “at least one slit”.

Thus, it is believed that the instant amendment has made moot each and every one of the grounds of rejection offered above and, as such, the instant rejection are moot and should be withdrawn.

Rejections Under 35 U.S.C. 103

Claims 1, 3-8, 12, and 16, and 18-19 stand as rejected under 35 USC 103(a) as being unpatentable over Chen, US 6,453,503, in view of Gallacher, US 6,267,022.

It is said that Chen discloses the claimed invention including an elongate handle (14), the handle having an upper and a lower end, a forward side and a rearward side, and a periphery, wherein at least the lower end is adapted for grasping, and with a slot being oriented substantially parallel to a center longitudinal axis of the handle, wherein the handle has at least one binding slit therein. (Claims 1 and 16).

In reply, applicants would note that Chen's "holes" are not "slits" as that term is consistently used in the specification and illustrated in the drawings of the instant application. As has been argued previously, applicant's slits reach the periphery of the handle and allow one-handed engagement of a cord without releasing it. To make this clearer, however, applicant has amended Claims **1** and **16** to recite that the slits called for in these claims are linear and elongated. This change was suggested by the examiner during the teleconference summarized above. Chen does not have linear elongated slits: Chen uses holes. However, the instant amendment makes even clearer the differences between the two inventions.

Further, Claims **1** and **16** as-amended call for an inwardly projecting ridge that extends toward the interior of the slit and which provides a raised surface along which the cord may be moved when it is engaged (Claim **1**) or against which such cord may be engaged (Claim **16**). In either case, each claim of the instant application now requires that each engaging slit include an inwardly projecting ridge therein (of the sort depicted in applicant's Figure 7) which restricts the slit opening and assists in the holding of an attaching chord therein.

Nothing in Chen or Gallagher – either individually or together – suggests applicants' internal ridge structure that projects into the interior of a retaining slit.

As such, it is believed that rejection of Claims **1** and **16** under 35 USC 103 is inappropriate and should be withdrawn.

Turning next to Claims **3** and **18**, it is said that the cord is capable of being removably attached to the scrubbing material.

In reply, for at least all of the reasons set out above it is believed that Claims **3** and **18** as-amended are in condition for allowance. More particularly, neither Chen nor Gallagher – alone

or in combination – teach or suggests the use of retaining slits that contain ridges that project into the interior of the slit and that removably engage a cord that is drawn therein.

As such, it is believed that the instant rejection of Claims **3** and **18** as-amended has been overcome and should be withdrawn.

With respect to Claims **4** and **18**, it is said that the scrubbing material is a mesh netting.

In reply, for at least all of the reasons set out above it is believed that Claims **4** and **18** as-amended are in condition for allowance. More particularly, neither Chen nor Gallagher – alone or in combination – teach or suggests the use of retaining slits that contain ridges that project into the interior of the slit and that removably engage a cord that is attached to scrubbing material that is comprised of mesh netting.

As such, it is believed that the instant rejection of Claims **4** and **18** as-amended has been overcome and should be withdrawn.

With respect to Claims **5** and **19**, it is said that the upper end of Chen's handles is outwardly flared at its terminus. Applicant is directed to consider Chen's Figure 2.

In reply, for at least all of the reasons set out above it is believed that Claims **5** and **19** as-amended are in condition for allowance. More particularly, neither Chen nor Gallagher – alone or in combination – teach or suggests the use of an outwardly flared handle that contains retaining slits with ridges that project into the interior of the slit and that removably engage a cord that is attached to scrubbing material.

As such, it is believed that the instant rejection of Claims **5** and **19** as-amended has been overcome and should be withdrawn.

With respect to Claim 7, it is said that at least one binding slit is oriented to be substantially parallel to the slot. Applicant is directed to consider Chen's Figure 5.

In reply, for at least all of the reasons set out above it is believed that Claim 7 as-amended is in condition for allowance. More particularly, neither Chen nor Gallagher – alone or in combination – teach or suggests the use of a slot that is substantially parallel to at least one binding slit with ridges that project into the interior of the slit and that removably engage a cord that is attached to scrubbing material.

As such, it is believed that the instant rejection of Claim 7 as-amended has been overcome and should be withdrawn.

With respect to Claim 8, it is said Chen discloses a plurality of binding slits. Applicant is directed to consider Chen's Figure 2.

In reply, for at least all of the reasons set out above it is believed that Claim 8 as-amended is in condition for allowance. More particularly, neither Chen nor Gallagher – alone or in combination – teach or suggests the use of a plurality of binding slits with ridges that project into the interior of each slit and that removably engage a cord that is attached to scrubbing material.

As such, it is believed that the instant rejection of Claim 8 as-amended has been overcome and should be withdrawn.

With respect to Claim 12, it is said Chen discloses a binding slit that is formed in the upper end of the handle at a shoulder of the outwardly flaring terminus of the handle. Applicant is directed to consider Chen's Figure 2 and 4. Chen is said not to disclose a binding wedge slit,

however, and it is said that Gallacher teaches a similar scrubbing device wherein an attaching cord is adapted to pass through and engage a binding wedge. Applicant is directed to Gallagher's Figure 4.

In reply, it is believed that the amendment offered *supra* makes the instant rejection moot and that for at least all of the reasons set out above it is believed that Claim 12 as-amended is in condition for allowance. More particularly, neither Chen nor Gallagher – alone or in combination – teach or suggests the use of a binding slits with ridges that project into the interior of the slit and that removably engage a cord that is attached to scrubbing material.

As such, it is believed that the instant rejection of Claim 12 as-amended has been overcome and should be withdrawn.

With respect to Claim 6, it is said Chen discloses a binding slit that is formed in the upper end of the handle at a shoulder of the outwardly flaring terminus of the handle. Applicant is directed to consider Chen's Figure 2 and 4. Chen is said not to disclose a binding wedge slit, however, and it is said that Gallacher teaches a similar scrubbing device wherein an attaching cord is adapted to pass through and engage a binding wedge. Applicant is directed to Gallagher's Figure 4 and pressure points 143 and 29.

In reply, it is believed that the amendment offered *supra* makes the instant rejection moot and that for at least all of the reasons set out above it is believed that Claim 6 as-amended is in condition for allowance. More particularly, Chen does not utilize either linear elongated slots as that term is consistently used by the applicant, and similarly does not utilize linear elongate slits. Chen uses holes that cannot be threaded without releasing one end of the attaching cord and that

require that the attaching cord be further tied in some way in order to secure the scrubbing material to the handle.

Gallagher utilizes an offset lip / blade combination combined with separate external vertical and horizontal tabs 215 / 219 to maintain a cord in place within his device. He does not use an elongate slot / slit combination, engagement with both of which being necessary in order to secure the cord to the instant scrubbing device. Gallagher's invention utilizes a single vertical slit 14. Gallagher's horizontal slit 291 is *not* used to hold the cord in place it is there to increase the flexibility of the handle. In fact, Gallagher specifically indicates that the horizontal slit 291 must be substantially smaller than the diameter of the cord to keep the cord from slipping into it. (Gallagher, Col. 2, lines 43-47).

Thus, the combination of Chen and Gallagher would at best result in a single-slit / single-hole combination for holding a scrubber in place, in direct contrast to the dual slot / slit combination used by the applicant.

As such, it is believed that the instant rejection of Claim 6 as-amended has been overcome and should be withdrawn.

Claims 2 and 17 stand as rejected under 35 USC 103(a) as being unpatentable over Chen, US 6,453,503, and Gallacher, US 6,267,022, as applied to Claims 1 and 16, respectively, in view of Chang US 6,370,723.

It is said that Chen and Gallagher disclose all elements claimed above, but do not disclose a material from which the attaching cord comprises. It is said that Change discloses a handle having porous scrubbing material fastened to it by an attaching cord (66) that comprises string. Applicant is directed to Column 2, Line 43 of Chang in support.

In reply, it is believed that, for at least the reasons identified above, Claims **2** and **17** as-amended are in condition for allowance. More particularly, neither Chen, nor Gallagher, nor Chang – alone or in combination – teach or suggest applicant's use of a linear elongate slot / slit combination (with the slit having internal ridges) as a means of securing an attaching cord (and, hence, a scrubbing device) to a handle. Further, and as has been discussed previously, the Chen / Gallagher combination results in a device that utilizes a slit / hole combination to secure the cord in place rather than the slit / slot combination of applicant.

As a consequence, it is believed that Claims **2** and **17** as-amended are in condition for allowance and the instant rejection against same should be removed.

Claims **10** and **11** stand as rejected under 35 USC 103(a) as being unpatentable over Chen, US 6,453,503, and Gallacher, US 6,267,022, as applied to Claims **1** in view of Stenner, US 5,182,838.

It is said that Chen and Gallagher disclose all elements claimed above, but do not disclose that the binding wedge is lined with a non-skid material such as rubber. Stenner is said to disclose a binding slit (50) that engages an attaching cord such as a shoelace that is lined with a non-skid material such as rubber. Applicant is directed to Figure 7 and Column 6, lines 14-24, in support.

By way of reply, it is believed that at least for the reasons set out previously Claims **10** and **11** as amended are in condition for allowance. Applicant notes, as an initial matter, that the “binding wedge” language has been removed by the amendment presented above. However, and continuing with the rejection as it applies to a “binding slit”, it should be noted as has been discussed previously that the Chen / Gallagher combination relied upon does not yield

applicant's invention. Thus, further combining Chen and Gallagher with Stenner yields a device that utilizes a hole / slot combination, one of which would be lined with rubber. This is not, of course, applicant's invention.

Further, applicant believes that the Stenner reference is inapplicable to the instant invention as it is non-analogous prior art. The Federal Circuit has cautioned against the use of art from disparate fields in rejecting an applicant's claims. Here, the Stenner reference (which deals exclusively with shoes) is believed to be non-analogous prior art, in that it is from a field of endeavor that would not be consulted by one inventing in this field. Consider, for example, the words of the Federal Circuit in *In re Oetiker*, 24 USPQ 2d 1443, 1446 (Fed. Cir. 1992)

We have reminded ourselves and the PTO that it is necessary to consider "the reality of the circumstances" . . . -in other words, common sense-in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor.

Here, it is believed that common sense would lead one to recognize that an inventor who was looking for a solution to the problem addressed by the instant invention (i.e., removably attaching scrubbing material to a handle via an attaching cord) would not be motivated to look within the "shoe" arts to find such a solution.

As a consequence, it is believed that Claims **10** and **11** as-amended are in condition for allowance and the instant rejection against them should be removed.

Claims **13** and **15** stand as rejected under 35 USC 103(a) as being unpatentable over Chen, US 6,453,503, and Gallacher, US 6,267,022, as applied to Claims **1** in view of Chang, US 6,370,723.

It is said that Chen and Gallagher disclose all elements claimed above, but do not disclose at least one massage boss thereon. Chang is said to disclose a massage boss.

In of reply, applicant believes that at least for the reasons set out previously Claims **13** and **15** as amended are in condition for allowance. Applicant notes that, as has been discussed previously, the Chen / Gallagher combination relied upon does not yield applicant's invention but instead yields a hole / slit combination which is used to secure scrubbing material to a handle via an attaching cord. Thus, further combining Chen and Gallagher with Chang yields a device that utilizes a hole / slot combination means of securing a cord that additionally has a scrubbing boss affixed thereto. This is not, of course, applicant's invention. Applicant utilizes a slot / slit combination with the slit having ridges internal thereto, the slot and slit cooperating together to secure an attaching cord in place.

As a consequence, it is believed that Claims **13** and **15** as-amended are in condition for allowance and the instant rejection against them should be removed.

Claim **14** stand as rejected under 35 USC 103(a) as being unpatentable over Chen, US 6,453,503, and Gallacher, US 6,267,022, as applied to Claims **1** in view of Borchers et. al, US 6,510,577.

It is said that Chen and Gallagher disclose the claimed invention including all elements mentioned above, but do not disclose an exfoliation mat. Borchers is said to disclose an exfoliation mat.

In reply, applicant believes that at least for the reasons set out previously Claim **14** as amended is in condition for allowance. Applicant notes that, as has been discussed previously, the Chen / Gallagher combination relied upon does not yield applicant's invention but instead

yields a scrubbing device that secures a scrubbing material in place using a slot / hole combination. Thus, further combining Chen and Gallagher with Chang yields a device that utilizes a hole / slot combination means of securing a cord that additionally has an exfoliation mat attached thereto. This is not, of course, applicant's invention. Applicant utilizes a slot / slit combination with the slit having ridges internal thereto, the slot and slit cooperating together to secure an attaching cord in place.

As a consequence, it is believed that Claim **14** as-amended is in condition for allowance and the instant rejection against it should be removed.

Claims **9** and **20** stand as rejected under 35 USC 103(a) as being unpatentable over Chen, US 6,453,503, and Gallacher, US 6,267,022, as applied to Claims **1** and **16**, respectively, in view of Sabo, US D156,039.

It is said that Chen and Gallagher disclose the claimed invention including all elements mentioned above, but do not disclose two binding slits of different widths. Sabo is said to disclose two binding slits of different widths.

By way of reply, applicant believes that at least for the reasons set out previously Claims **9** and **20** as amended are in condition for allowance. Applicant notes that, as has been discussed *supra*, the Chen / Gallagher combination relied upon does not yield applicant's invention but instead yields a scrubbing device that secures a scrubbing material in place using a slot / hole combination. Thus, further combining Chen and Gallagher with Chang yields a device that utilizes a hole / slot combination means of securing a cord that additionally has a slot and hole that are of different widths (or, multiple holes that are of different widths). This is not, of course,

applicant's invention. Applicant utilizes a slot / slit combination with the slit having ridges internal thereto, the slot and slit cooperating together to secure an attaching cord in place.

As a consequence, it is believed that Claim 14 as-amended is in condition for allowance and the instant rejection against it should be removed.


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This paper is intended to constitute a complete response to the Examiner's Office Action mailed 02/08/2008. If any deficiency is found herein, the Examiner is requested to notify the undersigned and a correction will be immediately forthcoming.

In view of the foregoing, the applicants believe that the rejections and objections offered by the Examiner have been overcome and should be withdrawn. It is believed that the claims – both as-filed and as-amended – are in condition for allowance and should be passed to the issue branch. Early and favorable action is earnestly solicited.

Respectfully Submitted,

5/8/08
Date



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